

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

ELIZABETH SINES, *et al.*,

Plaintiffs,

v.

JASON KESSLER, *et al.*,

Defendants.

CASE NO. 3:17-cv-00072

JUDGE NORMAN K. MOON

Anticipated Modified Instruction to the Jury re: Sanctions

In a federal civil action like this case, parties are entitled to the disclosure of all relevant, non-privileged evidence the other side possesses or controls, including relevant documents and electronically stored information. This pre-trial process is known as “discovery.”

During the discovery process in this case, I found that Defendants Elliott Kline, Robert “Azzmador” Ray, Vanguard America, Nationalist Socialist Movement, and Matthew Heimbach failed to comply with their discovery obligations, and as a result I will issue appropriate sanctions against each of them.

One of those sanctions specifically concerns Defendants Elliott Kline and Robert “Azzmador” Ray.

On account of Defendant Elliott Kline's failure to comply with his discovery obligations in this case, I have imposed as a sanction that the following facts are to be deemed established as true against Defendant Elliott Kline for purposes of this case:

1. Defendant Kline was one of the leaders of Identity Evropa from April 2017 through at least August 2017.
2. Defendant Kline entered into an agreement with one or more coconspirators to engage in racially motivated violence in Charlottesville, Virginia on August 11 and 12, 2017. Whether such coconspirator or coconspirators are, or are not, a Defendant or Defendants, is a question for the jury.
3. Defendant Kline was motivated by animus against racial minorities, Jewish people, and their supporters when conspiring to engage in acts of intimidation and violence on August 11 and 12, 2017, in Charlottesville, Virginia.
4. It was reasonably foreseeable to Defendant Kline and intended by him that coconspirators would commit acts of racially-motivated violence and intimidation at the events in Charlottesville on August 11 and 12, 2017. Whether such coconspirator or coconspirators are, or are not, a Defendant or Defendants, is a question for the jury.

5. After the Unite the Right event in Charlottesville, Virginia on August 11 and 12, 2017, Defendant Kline ratified the racially-motivated violence at the event.

On account of Defendant Robert Azzmador Ray's failure to comply with his discovery obligations in this case, I have imposed as a sanction that the following facts are to be deemed established as true against Defendant Robert Ray for purposes of this case:

1. Defendant Ray was a writer for *The Daily Stormer* from at least July 2016 through at least March 2020.
2. Defendant Ray entered into an agreement with one or more coconspirators to commit racially motivated violence in Charlottesville, Virginia on August 11 and 12, 2017. Whether such coconspirator or coconspirators are, or are not, a Defendant or Defendants, is a question for the jury.
3. Defendant Ray was motivated by animus against racial minorities, Jewish people, and their supporters when conspiring to engage in acts of intimidation and violence on August 11 and 12, 2017, in Charlottesville, Virginia.
4. It was reasonably foreseeable to Defendant Ray and intended by him that the coconspirators would commit acts of racially motivated violence and

intimidation at the events in Charlottesville, Virginia on August 11 and 12, 2017. Whether such coconspirator or coconspirators are, or are not, a Defendant or Defendants, is a question for the jury.

5. After the Unite the Right event in Charlottesville, Virginia on August 11 and 12, 2017, Defendant Ray ratified the racially motivated violence that occurred at Unite the Right.

The Court will instruct you at a later time with respect the particular nature of other sanctions imposed as against Defendants Elliott Kline, Robert “Azzmador” Ray, Vanguard America, Nationalist Socialist Movement, and Matthew Heimbach.

You are cautioned, however, that each party is entitled to have the case decided solely on the evidence that applies to that party. The facts deemed established, which I just listed, are admitted only as to Defendants Elliott Kline and Robert “Azzmador” Ray, respectively. Thus, taking those facts as true for this case against Elliott Kline and Robert “Azzmador” Ray does not relieve Plaintiffs of their burden to prove by a preponderance of the evidence the conduct committed by the other Defendants in the case.